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REMARKS

The Office Action of February 9, 2005 has been received and carefully reviewed. It is submitted that, by this Communication, all bases of rejection and objection are traversed and overcome. Upon entry of this Communication, claims 12-26 remain in the application. New claims 31 and 32 have been added in order to set forth additional specific embodiments of Applicant's invention. Reconsideration of the claims as currently set forth is requested.

Claims 12 and 19-21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of co-pending Application No. 10/375,794 in view of Burns '133; and over claim 1 of co-pending Application No. 10/777,448; and over claim 1 of co-pending Application No. 11/017,163. Claims 12, 17 and 19-21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 7 of co-pending Application No. 10/777,449.

Though Applicant does not acquiesce to the Examiner's obviousness-type double patenting rejection, in order to expedite prosecution, Applicant is submitting herewith a terminal disclaimer in compliance with 37 C.F.R. 1.321(c) in order to overcome the provisional rejection based on the nonstatutory double patenting rejection with regard to co-pending Application Nos. 10/375,794; 10/777,448; and 10/777,449. As such, it is submitted that this rejection regarding these three applications has been obviated.

However, as to co-pending Application No. 11/017,163, Applicant respectfully takes issue with the Examiner's rejection. The Examiner states that "the limitations of claim 12 are obvious but not identical to the limitations of claim 1 of US 10/777,448 [sic; Applicant assumes it should read 11/017,163]." The Examiner then asserts that "the reservoir corresponds to the reservoir, the drop generator with the ejector, and the controllers is an obvious variation of the electronic circuitry."

Claim 1 of '163 is drawn to an inhaler. Nowhere does it suggest or recite an apparatus for ejecting a variably selected quantity of a pharmaceutical component onto a pharmaceutical receiving medium. As such, it is submitted that the Examiner's

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obviousness-type double patenting rejection is erroneously placed, and withdrawal of the same is respectfully requested.

Claims 12, 13, 16 and 19-25 stand rejected under 35 U.S.C. 102(b) as being anticipated by Wirch (US 5,881,716). The Examiner states that Wirch discloses an apparatus for manufacturing a pharmaceutical dose onto a pharmaceutical receiving medium. He asserts that the apparatus of Wirch includes a reservoir capable of containing one fluid pharmaceutical component, a fluid drop generator (item 8) fluidically coupled to the reservoir (item 5); and a control (columns 2-3) activating the fluid drop generator to eject a variably selected quantity of the pharmaceutical component onto the medium.

Applicant respectfully submits that Wirch does not teach or suggest an apparatus for ejecting a pharmaceutical component "onto a pharmaceutical receiving medium" as recited in Applicant's claims 12 and 20. In sharp contrast, Wirch teaches a dosing device suitable for use in inhalators or infusion instruments. Such devices dispense liquids directly into a living being, as opposed to "onto a pharmaceutical receiving medium" as recited by the Applicant.

Claims 12-15 and 18-26 stand rejected under 35 U.S.C. 102(b) as being anticipated by Voges (US 5,894,841). The Examiner asserts that Voges discloses an apparatus for manufacturing a pharmaceutical dose onto a pharmaceutical receiving medium, the apparatus comprising a reservoir capable of containing one fluid pharmaceutical component, a fluid drop generator (item 14) fluidically coupled to the reservoir (item 10); and a control (item 16) activating the fluid drop generator to eject a variably selected quantity of the pharmaceutical component onto the medium. The Examiner also states that the exact dose amount can be selected by an operator.

Applicant respectfully submits that Voges does not teach or suggest an apparatus for ejecting a pharmaceutical component "onto a pharmaceutical receiving medium" as recited in Applicant's claims 12 and 20. Voges teaches a dispenser "for administering a substance to a human or animal subject..." via inhalation or topical application (see Col. 3, lines 33 et seq.). As such, Voges actually teaches away from dispensing the substance onto a pharmaceutical receiving medium. In sharp contrast,

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Applicant's apparatus as recited in claims 12 and 20 is not supplying a liquid to a human or animal, rather it ejects a variably selected quantity of a pharmaceutical component onto a pharmaceutical receiving medium.

Claims 12-13, 17 and 19-25 stand rejected under 35 U.S.C. 102(b) as being anticipated by Moldavsky (US 6,061,608). The Examiner asserts that Moldavsky discloses an apparatus capable of being used for manufacturing a pharmaceutical dose onto a pharmaceutical receiving medium, the apparatus comprising a reservoir (pump 25 in which the liquid 17 is stored) capable of containing one fluid pharmaceutical component, a fluid drop generator (item 23) fluidically coupled to the reservoir; and a control (item 22 and 30) capable of activating the fluid drop generator to eject a variably selected quantity of the pharmaceutical component onto the medium.

Applicant respectfully submits that Moldavsky does not teach or suggest an apparatus for ejecting a pharmaceutical component "onto a pharmaceutical receiving medium" as recited in Applicant's claims 12 and 20. Moldavsky teaches a dispenser for precisely dispensing a controlled amount of a liquid. However, Moldavsky does not teach a reservoir containing one fluid pharmaceutical component, nor does he teach that the component is ejected onto a pharmaceutical receiving medium.

Claims 12-13 and 19-26 stand rejected under 35 U.S.C. 102(b) as being anticipated by Burns (US 5,284,133). The Examiner states that Burns discloses an apparatus capable of being used for manufacturing a pharmaceutical dose onto a pharmaceutical receiving medium, the apparatus comprising a reservoir (Item 10) capable of containing one fluid pharmaceutical component, a fluid drop generator (nebulizer - recited in column 10, lines 35-51) fluidically coupled to the reservoir; and a control (Figure 2, and see column 9) capable of activating the fluid drop generator to eject a variably selected quantity of the pharmaceutical component onto the medium.

Applicant respectfully submits that Burns teaches an inhalation device for delivering medication to a patient. Such devices dispense liquids directly into a living being, as opposed to "onto a pharmaceutical receiving medium" as recited in Applicant's claims 12 and 20.

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For all the reasons stated above, it is submitted that Applicant's invention as defined in claims 12, 20 and in those claims depending ultimately therefrom is not anticipated, taught or rendered obvious by the cited references, either alone or in combination, and patentably defines over the art of record.

Claim 15 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Voges (US 5,894,841) as applied to claim 14 above. The Examiner states that Voges discloses that the dispenser can be provided with a plurality of cartridges or reservoirs, each of which can hold a different component. Furthermore, the Examiner states that as to claim 15, Voges discloses that the fluid generator can have more than one fluid drop generator. The Examiner admits that Voges fails to teach that the different fluid drop generators are used for the different medications. The Examiner takes "official notice" that it would have been well known and conventional to have linked the multiple drop generators with individual cartridges or reservoirs. Further, the Examiner asserts that one skilled in the art would immediately recognize that connecting the reservoirs to the generators would enable the storage of multiple pharmaceuticals in one device, and multiple dosing regimes, without cross-contamination. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized various generators separately connected to the reservoirs in order to reduce cross-contamination.

Reiterating previous arguments, Applicant respectfully submits that Voges teaches a dispenser "for administering a substance to a human or animal subject..." via inhalation or topical application. Assuming *arguendo* that it would be obvious to connect the reservoirs to the generators, such combination would still not render Applicant's invention as recited in claim 15, as the device rendered would not be suitable for ejecting a pharmaceutical component onto a medium. Rather, following the teaching of Voges, the device would be capable of dispensing a solution for inhalation or topical application for a human or animal subject, **not** for ejecting onto a pharmaceutical receiving medium.

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As such, Applicant respectfully submits that his invention as defined in claim 15 is not anticipated, taught, or rendered obvious in view of Voges, either alone or in combination, and patentably defines over the cited art.

Claim 17 stands rejected under 35 U.S.C. 103(a) as being unpatentable over either of Wirch or Voges as applied to claim 12 above, and further in view of Moldavsky. The Examiner admits that neither Wirch nor Voges discloses a weight detector for detecting and outputting signals corresponding to the weight of the pharmaceutical receiving medium after the one pharmaceutical component has been dispensed onto the pharmaceutical receiving medium. The Examiner states that Moldavsky discloses a weight detector (item 21) for detecting and outputting signals corresponding to the weight of the pharmaceutical receiving medium after the one pharmaceutical component has been dispensed onto the pharmaceutical receiving medium (Applicant notes that, contrary to the assertion by the Examiner, **nowhere** does Moldavsky disclose or even suggest ejecting a pharmaceutical component onto a pharmaceutical receiving medium; in fact, Moldavsky teaches a liquid (e.g. epoxy) dispenser for applying liquid to manufactured components such as "printed wiring board[s]"). Further, the Examiner states that Moldavsky discloses that such weight control allows for improvements in the volumetric accuracy and repeatability of the dispensing process (see column 1, lines 59-62). The Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized such weight controls in the inventions of Wirch or Voges in order to achieve volumetric accuracy and repeatability.

Applicant again respectfully submits that none of the cited references disclose ejecting a pharmaceutical component onto a pharmaceutical receiving medium. As such, the combination of the above-cited references would not render Applicant's invention as recited in claim 17. Still further, it is submitted that the skilled artisan would not be led to combine Wirch and Voges, which teach dispensing into or onto a human being with Moldavsky, which teaches a machine for dispensing liquids, such as epoxies, onto manufactured articles such as printed wiring boards.

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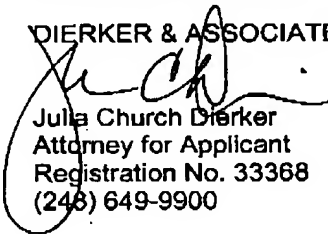
For all the reasons stated above, it is submitted that Applicant's invention as defined in claim 17 is not anticipated, taught or rendered obvious by the cited references, either alone or in combination, and patentably defines over the art of record.

New claims 31 and 32 have been added to depend from claim 12 and claim 20, respectively. Support for these claims may be found in the specification as filed at page 11, paragraph 0057, and page 16, paragraph 0078.

In summary, claims 12-26 remain in the application. New claims 31-32 have been added. It is submitted that, through this amendment, Applicant's invention as set forth in these claims is now in a condition suitable for allowance. Further and favorable consideration is requested.

Respectfully submitted,

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